



8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 CARMEN LAWTON,

11 Plaintiff,

12 v.

13 MICHAEL J. ASTRUE,
14 COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

15 Defendant.

Case No. ^{EDCV}CV 08-1160 AN

ORDER AFFIRMING
FINAL DECISION OF
THE COMMISSIONER

16
17 Both parties have consented to proceed before the undersigned Magistrate Judge.
18 In accordance with the Court's Case Management Order, the parties have filed the Joint
19 Stipulation ("JS") and seek a dispositive order regarding the disputed issues set forth in
20 the JS. The Court's decision is based upon the pleadings, the Administrative Record
21 ("AR"), and the JS. The Court now rules as follows with respect to the two disputed
22 issues that Plaintiff raised in the JS.

23 **Issue #1**

24 Plaintiff contends the Administrative Law Judge ("ALJ") did not give proper
25 reasons for discounting the opinions of Romualdo R. Rodriguez, M.D., a consultative
26 examiner. (JS at 3.) Dr. Rodriguez opined Plaintiff had minimal limitations in her
27 abilities to relate and interact with supervisors, coworkers and the public; maintain
28 concentration, attention, persistence and pace; associate with day-to-day work activity,

1 including attendance and safety; adapt to the stresses common to a normal work
2 environment; maintain regular attendance in the work place and perform work activities
3 on a consistent basis; and perform work activities without special or additional
4 supervision. (AR 161.) Plaintiff contends the ALJ improperly failed to consider all of
5 these limitations. (JS at 3.)

6 The present contention fails because the ALJ properly considered Dr. Rodriguez's
7 opinions for the reasons set forth by the Commissioner at pages 4 to 7 of the JS. (JS at
8 4-7.) The ALJ found Plaintiff had no more than mild limitations in the functional areas
9 of activities of daily living; social functioning; and concentration, persistence or pace.
10 (AR 13.) He also found Plaintiff had experienced no episodes of decompensation. (AR
11 13.) Consequently, the record establishes the ALJ did not reject Dr. Rodriguez's
12 foregoing opinions as Plaintiff erroneously contends, but that the ALJ actually made
13 findings that are consistent with Dr. Rodriguez's opinions. Further, based on these
14 findings, which are supported by substantial evidence in the record, the ALJ properly
15 found Plaintiff's mental impairments were not severe. (AR 9, 13.) 20 C.F.R. § §
16 404.1520a(d)(1); 416.920a(d)(1) (if degree of limitation in three functional areas none
17 or mild, and no episodes of decompensation, then impairment not severe).

18 **Issue #2**

19 Plaintiff contends the ALJ improperly failed to pose a complete hypothetical
20 question to the vocational expert because the hypothetical did not include all of the
21 limitations expressed by Dr. Rodriguez. (JS at 8.)

22 The present contention fails for the reason set forth by the Commissioner at page
23 9 of the JS. (JS at 9.) Specifically, at step 2 of the 5-step sequential analysis, the ALJ
24 found Plaintiff's mental impairments were not severe. (AR at 9, 13.) See 20 C.F.R. §
25 § 404.1520(a)(4) (5-step sequential analysis discussed), 416.920(a)(4) (same).
26 Accordingly, Plaintiff was not disabled. 20 C.F.R. § § 404.1520(a)(4)(ii) (if impairment
27 not severe, then claimant not disabled); 416.920(a)(4)(ii) (same). Vocational issues do
28 not arise until step 4 of the sequential analysis. 20 C.F.R. § § 404.1520(a)(4)(iv);

1 416.920(a)(4)(iv). Because the ALJ properly found that Plaintiff's mental impairments
2 were not severe and she was not disabled at step 2, he was not required to engage in a
3 step 4 analysis, therefore, any error arising from a step 4 analysis is harmless. *Burch v.*
4 *Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005) (holding "[a] decision of the ALJ will not
5 be reversed for errors that are harmless").

6 **Conclusion**

7 Based upon the foregoing, the Court finds the Commissioner's final decision is
8 free of legal error and supported by substantial evidence in the record. IT IS
9 THEREFORE ORDERED that a judgment be entered affirming the Commissioner's
10 final decision and dismissing this action with prejudice.

11
12 DATED: July 21, 2009

/s/ Arthur Nakazato
ARTHUR NAKAZATO
UNITED STATES MAGISTRATE JUDGE